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Jeffrey D. Mullen

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EXAMINER

RAMAKRISHNAIAH, MELUR

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/797,801	Applicant(s) MULLEN, JEFFREY D.	
	Examiner Melur Ramakrishnaiah	Art Unit 2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 September 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 8-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 8-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Continued Prosecution Application

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9-28-2008 has been entered.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 37-38 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. For example dependent claim 37 recites: wherein said notification signal is light-based. It is not clear from applicant's specification, how vibration signal sensed in the independent claim 37 is converted to the light-based signal. Similarly claim 38 recites: wherein the notification signal is sound-based. Again It is not clear from applicant's specification, how vibration signal sensed in the independent claim 37 is converted to sound-based signal.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 36 recites the limitation "said device" in line 1-2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-5, 8-9, are rejected under 35 U.S.C. 103(a) as being unpatentable over Kita (US PAT: 6,263,218) in view of Zhang et al. (US2004/0058647 A1, filed 9-24-2002, hereinafter Zhang).

Regarding claim 1, Kita discloses a system for use with a cellular phone that provides notification of an incoming call, the system comprising: a sensing device (24, figs. 1, 8) that is operable to be attaches to the cellular telephone (21, fig. 1) that provides communication signals indicative of an incoming call, wherein the sensing device (24, figs. 1, 12A/12B) is an autonomous device (col. 4 lines 16-24), and a remote communication device (26/27, figs. 1, 10) configured to receive the communication signals, wherein the communication device is configured to provide notification signals to a user dependent upon received communication signals (col. 3, line 66 – col. 4, line 65).

Kita differs from claim 1 in that he does not specifically teach: sensing device that senses a signal, operable to directly perceived by a user from the cellular phone.

However, Zhang discloses apparatus and method for providing hands free operation of a device which teaches the following: sensing device that senses a signal, operable to directly perceived by a user (reads on telephone ringing signal) from the cellular phone (fig. 2, paragraph: 0038).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify Kita's system to provide for the following: sensing device that senses a signal, operable to directly perceived by a user from the cellular phone as this arrangement would alert the user for incoming call both locally and remotely as taught by Zhang, thereby user does not miss the incoming call.

Regarding claims 2-5, 8-9, Kita further teaches the following: remote communication device (27, figs. 1, 10) includes an amplifier (122, fig. 10) and a speaker (133, fig. 10), wherein the notification signals are audible notifications, remote communication device includes a vibrating device (131, fig. 10) and a source of electrical energy (see Vcc on fig. 10), wherein notification signal are vibrational notifications (col. 10 lines 12-60), remote communication device includes a light emitting device (225, fig. 24) and a source of electrical energy (not shown), wherein notification signals are light-emitted notifications (col. 20, line 65 – col. 21, line 8), remote communication device includes a display device (142, fig. 10) and source of electrical energy, wherein the notification signals are text notifications (col. 27 lines 26-34), sensing device (24, figs. 1, 12A/12B) is an autonomous device, sensing device (24, fig. 1) and remote communication device (26/27, fig. 1) wirelessly communicate as shown in

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fig. 1, wireless communication is a one way communication from the sensing device (24, fig. 1) to the remote communication device (26/27, fig. 1).

8. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kita in view of Zhang as applied to claim 1 above, and further in view of Higuchi et al. (US PAT: 6,697,647, filed 2-22-2001, hereinafter Higuchi).

The combination differs from claim 10 in that it does not specifically teach: wireless communication is a two-way communication between the sensing device and the remote communication device.

However, Higuchi discloses cellular mobile telephone apparatus and alarm device therefor which teaches: wireless communication is a two-way communication between the sensing device and the remote communication device (fig. 7, col. 10 lines 16-41).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify the combination to provide for the following: wireless communication is a two-way communication between the sensing device and the remote communication device as this arrangement would facilitate the user to send a message to the caller that he cannot presently take the call because of his circumstances as taught by Higuchi.

9. Claims 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kita in view of Zhang as applied to claim 1 above, and further in view of Togawa (JP2001086202A).

The combination differs from claims 11-13 in that it does not specifically teach: sensing device and the remote communication device communicate through a wire-based extension, wire-based communication is a: one-way communication from the sensing device to the remote communication device, a two-way communication between the sensing device and the remote communication device.

However, Togawa discloses ear microphone assembly which teaches: sensing device (6, fig. 1) and the remote communication device (3, fig. 1) communicate through a wire-based extension, wire-based communication is a: one-way communication from the sensing device to the remote communication device, a two-way communication between the sensing device and the remote communication device (see abstract; paragraphs: 0013-0015 and Drawing 1).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify the combination to provide for the following: sensing device and the remote communication device communicate through a wire-based extension, wire-based communication is a: one-way communication from the sensing device to the remote communication device, a two-way communication between the sensing device and the remote communication device as this arrangement would provide wire-based communication between the portable telephone and remote communication device as taught by Togawa, thus providing another way of interfacing the devices.

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10. Claims 15-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kita in view of Zhang as applied to claim 1 above, and further in view of Perry et al. (US PAT: 6,160,489, hereinafter Perry) and Toyoshima (JP2001-352378).

The combination differs from 15 in that although it discloses autonomous sensing device (24, fig. 1, col. 4 lines 15-24 of '218), it does not specifically teach vibrational sensor for alerting.

However, Perry discloses wireless communication device adapted to plurality of distinctive tactile alert patterns which teaches the following: vibrational sensor for alerting (abstract).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify the combination to provide for the following: vibrational sensor for alerting as this arrangement would provide another well known method for alerting user for incoming calls as taught by Perry.

The combination differs from claims 16-18 in that sensing device includes a vibrational sensor, communication signals are provided based on the vibrational sensor sensing vibrations of the cellular phone: notification signal are light based, notification signals are audible, and notification signals are tactile.

However, Perry teaches sensing device includes a vibrational sensor, and notification signals are: light based, audible, tactile (col. 4, line 62-col. 5, line 21), but the combination of Kita and Perry does not teach: converting one form of alert into another form for sending into notification device.

However, Toyoshima teaches the following: converting one form of alert (for example light-based) into another form of alert (vibration) for sending into notification device (Drawings 1-5; paragraphs: 0007 -0016).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify the combination to provide for the following: sensing device includes a vibrational sensor, communication signals are provided based on the vibrational sensor sensing vibrations of the cellular phone: notification signal are light based, notification signals are audible, and notification signals are tactile in order to meet needs of the user circumstances as taught by the combination of Perry and Toyoshima.

The combination differs from claims 19-21 in that he does not specifically teach: sensing device includes a vibrational sensor, the communication signals are provided based on vibration sensor sensing vibrations of the cellular phone, and the vibrational sensor is operable to determine different types of vibrations of the cellular telephone, the vibrational sensor is operable to provide a different communication signals for each of the different types of types of vibrations.

However, Perry teaches the following: sensing device includes a vibrational sensor, and the vibrational sensor is operable to determine different types of vibrations of the cellular telephone, the vibrational sensor is operable to provide a different communication signals for each of the different types of types of vibrations (col. 5, line 61 – col. 6, line 32). But neither Kita nor Perry teach the following: the communication signals are provided based on vibration sensor sensing vibrations of the cellular phone.

However, Toyoshima teaches the following: converting one form of alert (for example light-based) into another form of alert (vibration) for sending into notification device (Drawings 1-5; paragraphs: 0007 -0016).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify the combination to provide for the following: sensing device includes a vibrational sensor, the communication signals are provided based on vibration sensor sensing vibrations of the cellular phone, and the vibrational sensor is operable to determine different types of vibrations of the cellular telephone, the vibrational sensor is operable to provide a different communication signals for each of the different types of types of vibrations in order to meet needs of the user circumstances as taught by the combination of Perry and Toyoshima.

The combination differs from claims 22-23, in that he does not specifically teach: sensing device includes a light sensor; sensing device includes a light sensor and the communication signals are provided based on the light sensor sensing the light emitted from the cellular phone.

However, Toyoshima teaches the following: sensing device includes a light sensor; sensing device includes a light sensor (T1, Drawing 1) and the communication signals are provided based on the light sensor sensing the light emitted from the cellular phone (paragraphs: 0007-0016).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify Kita's system to provide for the following: sensing device includes a light sensor; sensing device includes a light sensor and the communication

signals are provided based on the light sensor sensing the light emitted from the cellular phone in order to meet needs of the user circumstances as taught by Toyoshima.

11. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kita in view of Zhang as applied to claim 1 above, and further in view of Toyoshima and Oota (US 2003/0176205A1, filed 3-18-2002).

The combination differs from claim 24 in that it does not specifically teach: autonomous sensing device includes a light sensor, the communication signals are provided based on the light sensor sensing the light from the cellular phone, and the light sensor is operable to determine different types of lights emitted from the cellular phone.

However, Toyoshima teaches light sensor operable to determine types of light emitted from the cellular telephone (Drawing 3, paragraph: 0008-0011 of Toyoshima); Oota discloses Mobile communication terminal which teaches the following: different types of light emissions from the cellular telephone (paragraph: 0040).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify the combination to provide for the following: autonomous sensing device includes a light sensor, the communication signals are provided based on the light sensor sensing the light from the cellular phone as this arrangement would provide light based sensing of call signals; different types of light emissions from the cellular telephone as this arrangement would facilitate to identify different kinds of alerts as taught by Oota.

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12. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kita in view of Fujisawa et al. (US 2002/0115478 A1, 371 (c) date 2-13-2002, hereinafter Fujisawa).

Regarding claim 14, Kita discloses a system for use with a cellular phone that provides notification of an incoming call, the system comprising: a sensing device (24, figs. 1, 8) that is operable to be attached to the cellular phone (21, figs. 1, 3) that provides communication signals indicative of an incoming call, and a remote communication device (26/27, fig. 1) configured to receive the communication signals (col. 3, line 64 – col. 4, line 64), wherein the communication device is configured to provide notification signals that are light based and the notification signals are dependent upon the received communication signals (col. 20, line 65 – col. 21, line 8).

Kita differs from claim 14 in that he does not specifically teach: notification signals that are only light based

However, Fujisawa discloses mobile telephone and radio communication device cooperatively processing incoming call which teaches: notification signals that are only light based (paragraph: 0534).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify Kita's system to provide for the following: notification signals that are only light based in order to satisfy user circumstances and requirements as taught by Fujisawa.

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13. Claims 25 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kita in view of Fujisawa as applied to claim 14 above, and further in view of Toyoshima (JP2001-352378).

The combination differs from claims 25 and 27 in that sensing device is an autonomous sensing device, sensing device and the communication device communicate wirelessly.

However, Toyoshima teaches the following: sensing device is an autonomous sensing device, sensing device and the communication device (Drawings: 2, 4) communicate wirelessly (paragraphs: 0007-0016).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify the combination to provide for the following: sensing device and the communication device communicate wirelessly in order to meet needs of the user circumstances as taught by Toyoshima.

14. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kita in view of Fujisawa as applied to claim 14 above, and further in view of Togawa (JP2001-086202).

The combination differs from claim 26 in that it does not teach the following: sensing device and remote communication device communicate through a wire-based extension.

However, Togawa teaches the following: sensing device and remote communication device communicate through a wire-based extension (abstract, Drawing 1, paragraphs: 0013-0014).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify the combination to provide for the following: sensing device and remote communication device communicate through a wire-based extension as this arrangement would provide wire based notification of events in the portable telephone as taught by Togawa.

15. Claims 28-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kita in view of Fujisawa as applied to claim 14 above, and further in view of Higuchi et al. (US PAT: 6,697,647)

Kita differs from claims 28-30 in that it does not specifically teach: sensing device includes a battery; remote communication device includes a battery, remote communication includes a first battery and the sensing device includes a second battery.

However, Toyoshima discloses the following: sensing device includes a battery source (V Drawing 3) and Higuchi teaches the following: remote communication device includes a battery (28, fig. 7) and the combination of Higuchi and Toyoshima teaches: remote communication device includes a first battery and the sensing device includes a second battery.

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify the combination to provide for the following: sensing device includes a battery; remote communication device includes a battery, remote communication includes a first battery and the sensing device includes a second battery in order to provide required energy to operate the devices as is well known in the art.

Claim Rejections - 35 USC § 102

16. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

17. Claims 31-34 are rejected under 35 U.S.C 102(e) as being anticipated by Fujisawa.

Regarding claim 31, Fujisawa discloses a system comprising: a remote communication device (12, fig. 1) configured to determine notification of an incoming call of a cellular phone (11, fig. 1), wherein the remote communication device is configured to provide notification signals (0362-364), dependent on the notification of the incoming call, that are only light based (paragraph: 0534) and the remote communication device is configured to provide signals to the cellular phone (paragraph: 0364).

Regarding claims 32-34, Fujisawa further teaches the following: the remote communication device (12, fig. 1) determines the notification of the incoming call wirelessly, the notification signals that are only light based are provided by LED (paragraph: 0534), remote communication device (12, fig. 1) includes a battery (fig. 33).

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18. Claims 35-36, 39-40 are rejected under 35 U.S.C 102(b) as being anticipated by Tamami (JP10-155012).

Regarding claim 35, Tamami discloses a method comprising: sensing (this functionality is provided by controller 1, Drawing 1) that a phone is vibrating, communicating a first communication signal indicative of the sensed vibrating, receiving the first communication signal, and providing a notification to a user indicative of the first communication signal (abstract; Drawings 1-2; paragraphs: 0010-0013; 0016).

Regarding claims 36, 39-40, Tamami further teaches the following: device comprises a cellular phone (Drawing 1), the notification is vibration-based, the signal is vibrational signal (abstract; Drawings 1-2; paragraphs: 0010-0013; 0016).

19. Claims 37-38, 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tamami in view of Fujisawa.

Tamami differs from claims 37-38, 41 in that he does not specifically teach: notification is: light-based, sound base, signal is light-based signal.

However, Fujisawa teaches the following: notification is: light-based, sound base, signal is light-based signal (paragraph: 0071-0072)

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify Tamami's system to provide for the following: notification is: light-based, sound base, signal is light-based signal as this arrangement would facilitate notification of incoming communication by using sound and light etc as taught by Fujisawa so that user needs are met.

Response to Arguments

20. Applicant's arguments with respect to claims 1-5, 8-41 have been considered but are moot in view of the new ground(s) of rejection.

However, Examiner maintains rejection of claims 16-21 under 112 first paragraph as set forth below and as detailed in the office action dated 3-28-2008.

Rejection of claims 16-21 under 112 first paragraph is maintained as applicant has failed to explain persuasively how the limitations of these claims are carried out. For example claim 16 recites: wherein said autonomous sensing device includes a vibrational sensor, said communication signals are provided based on said vibrational sensor, sensing vibration of said cellular phone, and notification signals are light based. A cursory reading of this claim points out that source of notification signal is vibrational, and notification signal is light based at the remote device. This requires some kind conversion of vibrational signal into light based signal in order to provide light based notification at the remote device. Applicant in an effort to explain away this situation points out to paragraphs 11, 29, 30, 35, none of which explain how vibrational signal (source of notification signal) results in light based notification in the remote notification device. Applicant further attempts to get around this by stating: Applicant's specification includes additional instances of support for applicant's autonomous device and associated uses.

Other claims 17-21 are in similar predicament as claim 16.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melur Ramakrishnaiah whose telephone number is (571)272-8098. The examiner can normally be reached on 9 Hr schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curt Kuntz can be reached on (571) 272-7499. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Melur Ramakrishnaiah/
Primary Examiner, Art Unit 2614

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